

Board Administration and Regulatory Coordination Unit

Division 3. Air Resources Board

Chapter 1. Air Resources Board

Subchapter 1.25. Administrative Procedures–Hearings

Article 3. Administrative Hearing Procedures for Petitions for Review of Complaints

Subarticle 1. General Provisions

§ 60065.2. Definitions.

(a) The definitions applicable to these rules include those set out in the Health and Safety Code (commencing with section 39010) and in Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, sections 2250, et seq., and Chapter 8, Clean Fuels Program, sections 2300, et seq.

(b) The following definitions also apply:

(1) “Administrative record” means all documents and records timely filed with the hearing office, pursuant to section 60065.4 and the time deadlines of these rules, including pleadings, petitions, motions, and legal arguments in support thereof; all documents or records admitted into evidence or administratively noticed by the hearing officer; all official recordings or written transcripts of hearings conducted; and all orders or decisions issued by the hearing officer or executive officer regarding the complaint at issue; administrative record does not include any prohibited communications as defined in section 60065.13, and any settlement discussions or offers of settlement pursuant to section 60065.25.

(2) “Complainant” means the state board, acting through any of its employees that have been authorized to investigate, issue, and prosecute a complaint under this article.

(3) “Complaint” means a document issued by the complainant that alleges a violation(s) of Part 5 of the Health and Safety Code (other than a Class I violation for which a citation may be issued under Article 5 of this chapter) or any rule, regulation, permit, variance, or order of the state board, pertaining to fuel requirements and standards.

(4) “Consent Order” means an order entered by the hearing officer in accordance with the settlement agreement of the parties.

(5) “Days” means calendar days.

(6) “Default” means the failure of any party to take the steps necessary and required by these regulations to further the hearing towards resolution, resulting in a finding by the hearing officer of forfeiture of the cause of action against that party.

(7) “Discovery” refers to the process set forth in section 60065.26 allowing one party to request and obtain information relevant to the complaint proceedings. The scope of discovery is limited by the express terms of that section.

(8) “Ex Parte Communication” means an oral or written communication not on the public record for which reasonable prior notice to all parties should have been given.

(9) “Hearing Office” refers to the administrative hearings office established by the state board to conduct administrative hearings to implement the provisions of these rules or to the Office of Administrative Hearings established pursuant to Government Code section 11370.2. The administrative hearing office of the state board shall include at least one administrative law judge who shall act as a hearing officer.

(10) “Hearing Officer” is an administrative law judge appointed by the state board to conduct hearings under these procedures. Only appointed administrative law judges shall act as hearing officers.

(11) “Intervenor” means a person who is allowed to voluntarily enter into the proceedings with leave of the hearing officer.

(12) “Party” includes the complainant, respondent, and an intervenor to the extent permitted by the hearing officer pursuant to section 60065.22.

(13) “Proceeding” means any hearing, determination or other activity before the hearing officer involving the parties to a complaint.

(14) “Respondent” means any person against whom a complaint has been filed under this article.

(15) “Response” means a document, responsive to the complaint and signed by the respondent, in which respondent admits or denies the allegations of the complaint or asserts affirmative defenses to the action.

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(16) “Settlement Agreement” means a written agreement executed by the complainant, respondent, and, to the extent permitted by the hearing officer pursuant to section 60065.22(b)(4), an intervenor, that respectively settles the allegations of violation set forth in the complaint. Settlement agreements of a complaint should include:

(A) Stipulations by the parties establishing subject matter jurisdiction;

(B) An admission by respondent that it has committed the violations as alleged in the complaint or a statement by respondent that it neither admits nor denies such violation(s); and

(C) The terms and conditions of the settlement.

NOTE: Authority cited: Sections 39010, 39600, 39601, 43028 and 43031(a), et seq., Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Sections 39010, 39514, 43028 and 43031(a), Part 5, (commencing with 39010) Health and Safety Code; Sections 2250, et seq., 2300, et seq., title 13; and Sections 60075.1, et seq., Article 5, title 17, California Code of Regulations.

REFERENCE